

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
DARRYL T. COGGINS,

Plaintiff,

- against -

**07-CV-3624  
(JFB)(AKT)**

COUNTY OF NASSAU, NASSAU COUNTY  
POLICE DEPARTMENT, POLICE OFFICER  
JAMES VARA, in his individual and official  
capacity, and POLICE OFFICER CRAIG  
BUONORA, in his individual and official  
capacity, and JOHN DOES "1-10", in their  
individual and official capacity,

**NOTICE OF MOTION  
FOR DISMISSAL UNDER  
F.R.C.P. 12(b)(6) and 9;  
SUMMARY JUDGMENT  
UNDER F.R.C.P. 56**

Defendants.

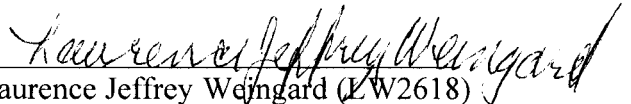
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**PLEASE TAKE NOTICE**, that upon the affidavit of POLICE OFFICER CRAIG BUONORA, the affidavit of LAURENCE JEFFREY WEINGARD, ESQ. and the accompanying exhibits attached thereto, the Statement of Material Facts pursuant to Local Rule 56.1 and the accompanying memorandum of law, Defendant POLICE OFFICER CRAIG BUONORA will move this Court at the Courthouse located at 100 Federal Plaza, Central Islip, New York 11722, on the 15<sup>th</sup> day of February, 2008 or as soon thereafter as counsel may be heard for an Order:

1. Dismissing Counts 4,5,6,7 and 8 of plaintiff's complaint pursuant to Federal Rule of Civil Procedure 12(b)(6);
2. Dismissing Counts 1,2,5 and 7 of plaintiff's complaint pursuant to Federal Rule of Civil Procedure 9;
3. Granting Defendant POLICE OFFICER CRAIG BUONORA summary judgment on Counts 1,2 and 7 of plaintiff's complaint pursuant to Federal Rule of Civil Procedure 56; and
4. Granting such other and further relief as the Court deems just and appropriate.

**PLEASE TAKE FURTHER NOTICE**, that pursuant to the Scheduling Order entered by the Honorable Joseph F. Bianco of the United States District Court for the Eastern District of New York, opposing papers, if any, are to be filed and served no later than the 7<sup>th</sup> day of February, 2008.

Dated: New York, New York  
January 24, 2008

  
Laurence Jeffrey Weingard (LW2618)  
John A. McGrath (JM8942)

LAW OFFICES OF  
LAURENCE JEFFREY WEINGARD  
250 West 57<sup>th</sup> Street, Suite 401  
New York, New York 10107  
(212) 974-5200

*Attorneys for Defendant  
Police Officer Craig Buonora*

To: **Via ECF**  
Frederick Brewington, Esq.  
*Attorney for Plaintiff  
Darryl T. Coggins*

**Via ECF**  
County Attorney, Nassau County  
Attn: Donna Napolitano, Esq.  
*Attorney for Defendants  
County of Nassau, Nassau County Police Department  
and Police Officer James Vara*

UNITED STATES DISTRICT COURT  
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Plaintiff,

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COUNTY OF NASSAU, NASSAU COUNTY  
POLICE DEPARTMENT, POLICE OFFICER  
JAMES VARA, in his individual and official  
capacity, and POLICE OFFICER CRAIG  
BUONORA, in his individual and official  
capacity, and JOHN DOES "1-10", in their  
individual and official capacity,

Defendants.

-----X

DEFENDANT POLICE OFFICER CRAIG BUONORA, by his attorney, Laurence

Jeffrey Weingard, submits the following Statement of Material Facts in support of his Rule 56

Motion pursuant to Local Rule 56.1:

1. Plaintiff Darryl T. Coggins, while driving two passengers, was pulled over by Nassau County Police Officer James Vara at approximately 4:30 AM on the morning of October 9, 2004 at the intersection of Jericho Turnpike and Holland Avenue in Floral Park, Nassau County, New York. (Exhibit "A" to Weingard Affidavit, Arrest Report, p. 3).

2. Nassau County Police Officer Craig Buonora, responding to a call for assistance, arrived at the scene of the stop at approximately 4:40 AM. (Buonora Affidavit para. 4).

3. While being given a Field Sobriety Test, Coggins fled the scene on foot, leaving behind his New York State Driver's License. (Exhibit "A" to Weingard Affidavit, Arrest Report, p. 3).

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**STATEMENT OF MATERIAL  
FACTS PURSUANT TO  
LOCAL RULE 56.1**

4. A loaded .380 caliber magazine was found next to the Coggins' vehicle's front passenger door. (Exhibit "A" to Weingard Affidavit, Arrest Report, p. 3).

5. Coggins escaped the scene after jumping over a fence in a nearby driveway. (Exhibit "A" to Weingard Affidavit, Arrest Report, p. 3).

6. At approximately 5:00 AM, a Floral Park Police Officer announced that he had located a loaded, defaced 9mm Hi-Point pistol near the fence Coggins had climbed over during the course of his flight from the traffic stop. (Buonora Affidavit para. 5).

7. Police Officer Craig Buonora was ordered to sign off duty at approximately 7:40 AM, near the end of his regularly scheduled tour of duty. (Buonora Affidavit para. 6).

8. At approximately 4:00 PM on October 9, 2004, Coggins surrendered himself with counsel present to the 3<sup>rd</sup> Precinct in Nassau County. (Exhibit "A" to Weingard Affidavit, Arrest Report, pp. 1, 3).

9. Nassau County Police Detective Alexander Barnych arrested Coggins. (Exhibit "A" to Weingard Affidavit, Arrest Report, p. 1).

10. The arrest report indicates that Barnych interviewed Officer Vara and the remaining passengers during the course of his investigation. (Exhibit "A" to Weingard Affidavit, Arrest Report, p. 2).

11. Two felony complaints were filed against Coggins by Barnych and Sergeant Mitchell Tepperman charging him with violating New York State Penal Law Sections 265.02(3)(Criminal Possession of a Weapon in the Third Degree) and 265.02(4)(Criminal Possession of a Weapon in the Third Degree). (Exhibits "C" and "D" to Weingard Affidavit, Felony Complaints).

12. Coggins pleaded not guilty at his arraignment. (Coggins' Complaint, para. 27).

13. The Coggins matter was presented to a Nassau County Grand Jury in March 2005 by Assistant District Attorney Mindy Plotkin. (Exhibit "G" to Weingard Affidavit, partial transcript of Grand Jury proceedings in *People of the State of New York v. Darryl T. Coggins*).

14. Officers Vara and Buonora, along with others, testified before the Grand Jury. (Exhibit "G" to Weingard Affidavit, partial transcript of Grand Jury proceedings in *People of the State of New York v. Darryl T. Coggins*; Coggins Complaint, para. 23).

15. Officer Buonora testified, falsely, in the Grand Jury that he had located the loaded, defaced 9mm Hi-Point pistol and secured it until relieved by a Floral Park Officer. (Exhibit "G" to Weingard Affidavit, partial transcript of Grand Jury proceedings in *People of the State of New York v. Darryl T. Coggins*; Buonora Affidavit, para. 11).

16. The Grand Jury returned a true bill, indicting Coggins under Indictment Number 663N-2005 for two counts of Criminal Possession of a Weapon in the Third Degree and one count of Resisting Arrest. (Coggins Complaint, para. 22).

17. The criminal case against Coggins was dismissed on motion of the Nassau County District Attorney when the false testimony of Officer Buonora came to light. (Coggins Complaint, para. 27).

18. Officer Buonora did not testify at the evidentiary hearings. (Buonora Affidavit, para. 13).

19. Officer Vara was granted transactional immunity and testified at a Grand Jury contemplating charges against Officer Buonora. (Weingard Affidavit, para. 5).

20. On September 8, 2005 Buonora was indicted by a Nassau County Grand Jury on

one count of violating New York State Penal Law Section 210.15 (Perjury in the First Degree). (Exhibit "I" to Weingard Affidavit, *People of the State of New York v. Craig T. Buonora*, Indictment No. 1957N-05).

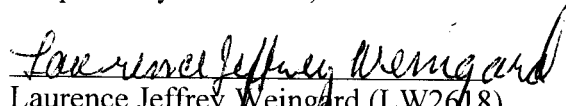
21. Officer Buonora subsequently pleaded guilty to one count of Perjury in the Third Degree, a Class "A" misdemeanor and received as his sentence a one thousand dollar (\$1,000.00) fine, a Crime Victims Assistance Fee of twenty dollars (\$20.00), and a Court Surcharge of one hundred-forty dollars (\$140.00) and a conditional discharge. (Exhibit "J" to Weingard Affidavit, certified copy of criminal disposition of Craig T. Buonora).

22. Officer Buonora was granted a Certificate of Relief from Civil Disabilities at the time of his sentencing. (Exhibit "K" to Weingard Affidavit, Certificate of Relief from Civil Disabilities).

23. Following disciplinary proceedings which resulted in substantial fines and disciplinary probation, all of which Buonora complied with and successfully completed, he remains employed as a Nassau County Police Officer, currently assigned to desk duty. (Weingard Affidavit, para. 5).

Dated: New York, New York  
January 24, 2008

Respectfully submitted,

  
Laurence Jeffrey Weingard (LW2618)  
John A. McGrath (JM8942)

LAW OFFICES OF  
LAURENCE JEFFREY WEINGARD

250 West 57<sup>th</sup> Street, Suite 401  
New York, New York 10107  
(212) 974-5200

*Attorneys for Defendant*  
*Police Officer Craig Buonora*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DARRYL T. COGGINS,

Plaintiff,

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**(JFB)(AKT)**

- against -

COUNTY OF NASSAU, NASSAU COUNTY  
POLICE DEPARTMENT, POLICE OFFICER  
JAMES VARA, in his individual and official  
capacity, and POLICE OFFICER CRAIG  
BUONORA, in his individual and official  
capacity, and JOHN DOES "1-10", in their  
individual and official capacity,

**AFFIDAVIT**

Defendants.

-----X  
State of New York     }  
                              }ss.  
County of New York   }

CRAIG BUONORA, being duly sworn, deposes and says:

1. I am the defendant in the above captioned action and as such, I am fully familiar with the facts and circumstances therein. I make this affidavit upon my personal knowledge and all of my statements are true, except those statements I make upon information and belief, and of those statements, I believe them to be true.

2. I make this affidavit in support of the instant application seeking an order, *inter alia*, dismissing the plaintiff's complaint in its entirety.

3. I am currently a Nassau County Police Officer, Shield Number 406, Serial Number 8097, Third Precinct. At all times relevant to the allegations contained within plaintiff's complaint I was so employed.

4. On October 8, 2004, I was working a 1900 x 0700 tour assigned to radio motor



patrol 303. At approximately 0440 on October 9, 2004 I responded to a call for assistance from Police Officer James Vara at Jericho Turnpike and Holland Avenue in Floral Park.

5. I attempted to assist Officer Vara in his foot pursuit of a suspect I now know to be plaintiff before returning to plaintiff's vehicle which Officer Vara had initially stopped. A loaded .380 caliber magazine was found at the car. A Floral Park Police Officer informed me that he had found a defaced 9mm High-Point pistol at or about the location where the plaintiff had climbed a fence in his attempt to flee Officer Vara.

6. At approximately 0740 on October 9, 2004, I was instructed to sign off duty.

7. I did not arrest the plaintiff, who surrendered himself for arrest at approximately 1600 on October 9, 2004.

8. I neither signed nor took any part in the preparation of the criminal complaint filed against plaintiff.

9. At no time was I interviewed by the arresting officer, Detective Alexander Barnych.

10. The next time I had any involvement in this case was when I was ordered to appear at the office of the Nassau County District Attorney with respect to testifying before the Grand Jury.


11. I testified before the Grand Jury on March 17, 2005, falsely stating that I had found the 9mm High-Point pistol and secured it until relieved by a Floral Park Officer.

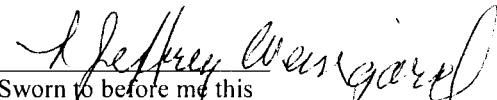
12. I was subsequently indicted for perjury and eventually pleaded guilty to one misdemeanor count of perjury.

13. I did not initiate criminal proceedings against the plaintiff and my only role in those proceedings was my testimony before the Grand Jury on March 17, 2005.

14. I respectfully request that the Court find, as a matter of law, that I was not the complaining witness in plaintiff's criminal prosecution and make the determination that I have absolute immunity from civil liability as my only involvement in the criminal prosecution of plaintiff was my testimony before the Grand Jury.

Dated: New York, New York  
January 3, 2008

  
\_\_\_\_\_  
Craig Buonora

  
Sworn to before me this  
3<sup>rd</sup> day of January 2008

L. JEFFREY WEINGARD  
NOTARY PUBLIC, State of New York  
No. 02WE9578750  
Qualified in New York County  
Commission Expires April 30, 2010

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DARRYL T. COGGINS,

Plaintiff,

**07-CV-3624**  
**(JFB)(AKT)**

- against -

COUNTY OF NASSAU, NASSAU COUNTY  
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capacity, and POLICE OFFICER CRAIG  
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capacity, and JOHN DOES "1-10", in their  
individual and official capacity,

**AFFIDAVIT**

Defendants.

-----X  
State of New York     }  
                              }ss.  
County of New York   }

LAURENCE JEFFREY WEINGARD, being duly sworn, deposes and says:

1. I am the attorney for the defendant POLICE OFFICER CRAIG BUONORA "BUONORA" in the above captioned action and as such, I am fully familiar with the facts and circumstances therein. I make this affidavit upon my personal knowledge and the exhibits attached hereto. All of my statements are true, except those statements I make upon information and belief, and of those statements, I believe them to be true.

2. I make this affidavit in support of the instant application seeking an order, *inter alia*, dismissing the plaintiff's complaint in its entirety.

3. As more fully set forth in the accompanying memorandum of law, the affidavit of CRAIG BUONORA and attached exhibits, pursuant to F.R.C.P. 12(b)(6) F.R.C.P. 56 and/or

F.R.C.P. 9, each and every one of the allegations made by DARRYL T. COGGINS (“COGGINS”) should be dismissed in its entirety as against BUONORA.

4. I was the defense attorney of record for BUONORA with respect to indictment number 1957N-05 (County Court, County of Nassau) alleging Perjury in the First Degree, a class “D” Felony, as well as one of his attorneys with respect to disciplinary charges and specifications brought against him by the Nassau County Police Department, which was finally resolved on his behalf by an attorney provided by the Police Benevolent Association, Nassau County, New York.

5. While serving as the attorney of record for BUONORA during his criminal case, I was made aware of facts which, upon information and belief, indicated that POLICE OFFICER JAMES VARA was granted transactional immunity by virtue of his testimony before the Grand Jury contemplating charges against BUONORA.

6. BUONORA plead guilty to one count of Perjury in the Third Degree, a class “A” Misdemeanor.

7. BUONORA was sentenced to a conditional discharge, assessed a one-thousand dollar (\$1,000.00) fine and court costs. At the time of his sentencing he received a Certificate of Relief from Civil Disabilities.

8. Additionally, BUONORA plead guilty to two charges and specifications in connection with Nassau County Police Department disciplinary proceedings receiving as punishment the docking of one hundred (100) days pay and one year of probation, which he successfully completed.

9. Attached hereto as Exhibit “A” is a true and correct copy of the Nassau County Police Department Arrest Report “204AR0017759 Coggins Darryl T”.

10. Attached hereto as Exhibit “B” is a true and correct copy of the Nassau County Police Department Crime Report “PDCN 85ASJ - 204CR0082564”.

11. Attached hereto as Exhibit “C” is a true and correct copy of the Nassau County District Court – Felony Complaint with respect to arrest number 204AR0017759 (Count One - Criminal Possession of a Weapon in the Third Degree).

12. Attached hereto as Exhibit “D” is a true and correct copy of the Nassau County District Court – Felony Complaint with respect to arrest number 204AR0017759 (Count Two - Criminal Possession of a Weapon in the Third Degree).

13. Attached hereto as Exhibit “E” is a true and correct copy of the Nassau County Police Department Defense Notification with respect to arrest number 204AR0017759.

14. Attached hereto as Exhibit “F” is a true and correct copy of the Nassau County Police Department - 3<sup>rd</sup> Squad Case Report “PDCN 32SJ - 204CR0082564”.

15. Attached hereto as Exhibit “G” is a true and correct copy of the complete minutes of the Grand Jury testimony of Police Officer Craig Buonora given in the matter of *The People of the State of New York v. Darryl T. Coggins* dated March 17, 2005. (Pages 36 -49 inclusive).

16. Attached hereto as Exhibit “H” is a true and correct copy of Darryl T. Coggins’ Complaint filed August 28, 2007.

17. Attached hereto as Exhibit “I” is a true and correct copy of Indictment Number 1957N-05 in the matter of *The People of the State of New York v. Craig T. Buonora*.

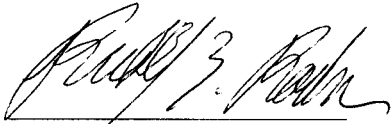
18. Attached hereto as Exhibit “J” is a true and correct certified copy of the criminal

disposition of Police Officer Craig Buonora.

19. Attached hereto as Exhibit "K" is a true and correct copy of the Certificate of Relief from Civil Disabilities issued to Officer Buonora at the time of his sentencing.

Dated: New York, New York  
January 24, 2008

  
Laurence Jeffrey Weingard



Sworn to before me this 24th day  
of January 2008

**Rudolf B. Radna**  
**Notary Public, State of New York**  
**Reg. #02RA6085236**  
**Qualified in New York County**  
**Commission Expires 12/22/2010**